

Ram Kishan (Since Deceased) Through His Lrs Etc.
v.
State of Haryana & Ors.

(Civil Appeal No(s). 4772-4773 of 2025)

03 April 2025

[B.R. Gavai and K.V. Viswanathan,* JJ.]

Issue for Consideration

Whether the Appellants, landowners of Village Dharuhera, Haryana, whose lands were acquired under the Land Acquisition Act, 1894, by a notification dated 12.12.2008 are entitled to compensation at a higher rate—on par with the compensation awarded for similarly situated lands in adjoining villages, acquired under a later notification dated 13.05.2010, where the compensation was enhanced vide judgments in *BESCO* and *M/s Habitat Estates*.

Headnotes[†]

Land Acquisition Act, 1894 (LA Act) – Land acquired for development and utilization of institutional sector in Dharuhera village, Haryana – Market value determined by Land Acquisition Collector (LAC) challenged – Reference Court enhanced the compensation – High Court vide impugned judgment, for reasons different from those recorded by Reference Court, maintained award as ordered by Reference Court – Impugned judgment set aside – Reasoning given by High Court to rely only on one exemplar not satisfactory – Lands acquired in adjoining villages are comparable – Compensation enhanced – Principle of de-escalation applied – Appeals partly allowed.

Appellants' land acquired for development and utilization of Institutional Sector 5A under the Haryana Urban Development Authority Act, 1977 in Dharuhera village in Haryana – Section 4, LA Act, notification issued on 12.12.2008 – Section 6, LA Act, declaration issued on 11.12.2009 – LAC determined market value at Rs. 21,00,000/- per acre – Appellants filed reference for appropriate enhancement under LA Act, Section 18 – Reference Court enhanced the compensation, relying on award in acquisition vide notification dated 13.05.2010 in adjoining village of Malpura for development of industrial sectors 15, 16 and 17 of Dharuhera – Considering the difference of 17

* Author

Supreme Court Reports

months in date of two notifications, Reference Court applied de-escalation of 12% and awarded compensation of Rs. 55,71,010/- per acre – High Court in impugned judgment found that Reference Court erred in placing reliance on the award in Malpura village as no evidence to prove that the acquired land in village Malpura *vide* notification dated 13.05.2010 was comparable in its geographical location, valuation and other factors – Reference Court also faulted for not considering sale deeds produced by parties which reflected a price lesser than the amount offered by the LAC – High Court relied on one exemplar Exh. PW4/D dated 02.05.2006 and rejected the other sale deeds – Confirmed judgment of Reference Court for reasons different from the one adduced by the Reference Court – Aggrieved landowners filed Appeals:

Held: Lands of villages Malpura and Kapriwas acquired under the notification of 18.05.2010 and lands of Appellants herein acquired by notification of 12.12.2008 – Purpose of acquisition in both matters development and utilization for sectors in Dharuhera (institutional and industrial respectively) – Villages are adjoining – Acquired lands under notifications of 12.12.2008 and 13.05.2010 on two sides of the NH-8 Jaipur-Delhi Highway – Vast difference in prices in exemplar of sale deeds relied upon by the Appellants and the State – High Court rejected all, except Exh. PW4/D – Reasoning given by High Court to only rely on PW4/D not satisfactory – Reasoning given by High Court that no evidence to prove that the acquired lands in village Malpura was comparable with the then geographical location, and other factors of the Appellants' lands bereft of merit – Map indicates the proximity of the lands – Reference Court rightly recorded that villages were adjoining and the acquisition was all part of development of sectors in Dharuhera – Reliance to be placed on the value of the land arrived at in *BESCO* wherein compensation awarded with respect to lands acquired in village Malpura *vide* notification dated 13.05.2010 and village Kapriwas was enhanced – Rs. 1,49,14,975 per acre to be treated as base value for the Appellants' lands – Appropriate percentage of de-escalation and appropriate reduction for change of land use charges to be provided for – De-escalation @ 12% p.a. for one year and for remaining five months an additional 6% on the base value – Adjusting for change of land use charges by deducting Rs. 5 lakh – Figure of Rs. 1,18,37,668/- as the base value arrived at on which statutory benefits under Section 23(1-A), 23(2) and 28, LA Act in accordance with law to be paid after deducting the amounts already paid to the landowners.

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

Eleven appeals pertain to acquisition pursuant to notification dated 13.05.2010 under Section 4, LA Act, and notification dated 12.05.2011 under Section 6, LA Act – Lands in village Malpura and Kapriwas – Same directly covered by judgments in *BESCO* and *M/s Habitat Estates* – Land losers entitled to same benefits – However, not entitled to interest for the period of delay in filing/delay in refiling after delayed filing of the appeal(s).

Land Acquisition Act, 1894 – Principle of de-escalation and escalation applied to fix compensation:

Held: Principle of de-escalation to be applied while determining base value of award – *Peerappa Hanmantha Harijan, Chandrashekar* and *Sardar Singh* referred to.

Land Acquisition Act, 1894 – Determination of compensation in each case depends upon the nature of land and the evidence adduced in each case – Compensation cannot be determined by blindly following the previous award/judgment:

Held: Reliance placed on *Manoj Kumar* in which it was held that the determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent sale deeds after the award and before preliminary notification under Section 4 are also to be considered, if filed – Not proper to ignore the evidence adduced in the case at hand – Compensation cannot be determined by blindly following the previous award/judgment – *Manoj Kumar* did not hold that awards in other cases which are relevant cannot be relied upon at all – Such awards will be relevant as a piece of evidence and not be conclusive in nature – Even before its notification as a municipal area, prices in Dharuhera, as evident from the exemplars cited by the land losers, indicate a range of Rs. 1,30,00,000/- per acre and Rs. 1,80,72,289/- per acre, though for varying extent of lands – Hence, even test laid down in *Manoj Kumar* satisfied – Reliance can safely be placed on the award in *BESCO* to arrive at base value.

Potentiality Factor to be considered while assessing market value:

Held: Potentiality is the use to which the land is put to use or reasonably capable of being put to use – Potentiality of the land is to be taken into consideration while assessing the market value – Acquired lands surrounded by Modern Senior Secondary School, Huda Sector 4 residential colony, bus stand, commercial shops,

Supreme Court Reports

Bajrang Nagar residential colony, Parshavnath residential flats, M2K city, Bhagat Singh residential colony and other developed areas – Cannot be disputed that acquired lands had immense potentiality and could have been put to multifarious use.

Case Law Cited

***BESCO Ltd. v. The State of Haryana and Ors.*, Civil Appeal No. 5376 of 2023 – relied on.**

M/s Habitat Estates Pvt. Ltd. v. The State of Haryana & Ors., **Civil Appeal No. 2237 of 2024**; *New Okhla Industrial Development Authority v. Harnand Singh (Deceased) through Lrs. and Ors.*, **2024 SCC OnLine SC 1691**; *Mehrawal Khewaji Trust (Registered), Faridkot and Ors. v. State of Punjab and Ors.* [2012] **4 SCR 24** : (2012) **5 SCC 432**; *Peerappa Hanmantha Harijan (Dead) by Legal Representatives and Others v. State of Karnataka and Another* [2015] **9 SCR 498** : (2015) **10 SCC 469**; *Chandrashekar (dead) by LRs and Others v. Land Acquisition Officer and Another* [2011] **15 SCR 414** : (2012) **1 SCC 390**; *Sardara Singh and Others v. Land Acquisition Collector, Improvement Trust, Rupnagar and Others* (2020) **14 SCC 483**; *Bijender and Others v. State of Haryana and Another* (2018) **11 SCC 180**; *Vithal Rao and Another v. Special Land Acquisition Officer* [2017] **6 SCR 335** : (2017) **8 SCC 558**; *Ravinder Narain v. Union of India* [2003] **2 SCR 424** : (2003) **4 SCC 481**; *Atma Singh v. State of Haryana* [2007] **12 SCR 1120** : (2008) **2 SCC 568**; *U.P. Awas Evam Vikash Parishad v. Asha Ram (Dead) through legal representatives and Others* [2021] **3 SCR 751** : (2021) **17 SCC 289**; *Nagpur Improvement Trust & Anr v. Vithal Rao & Anr.* [1973] **3 SCR 39** : (1973) **1 SCC 500**; *Manoj Kumar and Others v. State of Haryana and Others* [2017] **8 SCR 997** : (2018) **13 SCC 96** – referred to.

List of Acts

Land Acquisition Act, 1894; Haryana Urban Development Authority Act, 1977.

List of Keywords

Land Acquisition; De-escalation; Enhancement; Potentiality factor; Base value.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 4772-4773 of 2025

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

From the Judgment and Order dated 20.09.2022 of the High Court of Punjab & Haryana at Chandigarh in RFA No. 4240 and 3508 of 2019

With

Civil Appeal No(s). 4774, 4775, 4776, 4777, 4778-4782, 4783, 4784, 4785, 4786, 4787, 4788-4793, 4794, 4795, 4796, 4797 and 4798 of 2025

Appearances for Parties

Advs. for the Appellants:

Ms. Kavita Wadia, S.B. Upadhyay, Gagan Gupta, Sr. Advs., Varun Kumar, R. C. Kaushik, Sureshan P., Shivam Yadav, Rohan Yadav, Tushar Mahajan, Ajit Kumar Ekka, Nishant Kumar, Ananta Prasad Mishra.

Advs. for the Respondents:

Alok Sangwan, Sr. AAG., Akshay Amritanshu, Ms. Pragya Upadhyay, Ms. Drishti Saraf, Ms. Swati Mishra, Sumit Kumar Sharma, Rajat Sangwan.

Judgment / Order of the Supreme Court

Judgment

K.V. Viswanathan, J.

1. Delay in filing/refiling the Special Leave Petition(s) is condoned.
2. Leave granted.
3. Sixteen¹ out of the twenty-seven matters in this batch calls in question the correctness of the judgment passed by a learned Single Judge

1 1. C.A. @ SLP(C) Nos. 5544-5545/2023 (2 Matters)
2. C.A. @ SLP(C) Nos. 4044/2023
3. C.A. @ SLP(C) Nos. 4051/2023
4. C.A. @ SLP(C) Nos. 4045/2023
5. C.A. @ SLP(C) Nos. 4058/2023
6. C.A. @ SLP(C) Nos. 4052-4056/2023 (5 Matters)
7. C.A. @ SLP(C) Nos. 4048/2023
8. C.A. @ SLP(C) Nos. 4298/2023
9. C.A. @ SLP(C) Nos. 9166/2023
10. C.A. @ SLP(C) Nos. 15189/2023
11. C.A. @ SLP(C) Nos. 15188/2023

Supreme Court Reports

of the High Court of Punjab and Haryana at Chandigarh in RFA No. 701/2022 and batch dated 20.09.2022. By the said judgment, the High Court, for reasons different from those recorded by the Reference Court, maintained the award of Rs. 55,71,010/- per acre as ordered by the Reference Court in its judgment dated 29.07.2019. Holding so, both the appeals of the land losers and the State were dismissed. The land losers are in appeal(s) before us.

THE ELEVEN DIRECTLY COVERED APPEALS²

4. Out of the twenty-seven matters in the batch, eleven matters pertain to acquisition pursuant to the notification under Section 4 of the Land Acquisition Act, 1894 (for short 'LA Act') dated 13.05.2010 and notification under Section 6 of LA Act dated 12.05.2011. They pertained to village Malpura and Kapriwas. Insofar as these eleven matters are concerned (arising out of judgment in RFA No. 1625 of 2019 and batch dated 02.11.2021), it is not disputed at the Bar that the same are directly covered by the judgments of this Court in Civil Appeal No. 5376 of 2023 [*BESCO Ltd. vs. The State of Haryana and Ors.*] and Civil Appeal No. 2237 of 2024 [*M/s Habitat Estates Pvt. Ltd. vs. The State of Haryana & Ors.*]. The judgments have been delivered by this Court on 23.08.2023 and 13.02.2024 respectively. By the said judgment(s), this Court allowed the appeals of the land losers and enhanced the compensation to Rs. 1,49,14,975/- per acre along with other statutory benefits. Hence, the eleven matters mentioned in this para will be governed by the judgments passed by this Court in *BESCO Ltd (Supra)* and *M/s Habitat Estates Pvt. Ltd. (Supra)* and the land losers will be entitled to the same benefits as was ordered by this Court. However, they will not be entitled to interest for the period of delay in filing/delay in refiling after delayed filing of the appeal(s).

2 1. C.A. @ SLP (C) Diary No. 53634/2023 (Total-6 Matters)
 2. C.A. @ SLP (C) No. 14904/2024
 3. C.A. @ SLP (C) No. 14905/2024
 4. C.A. @ SLP (C) No. 14903/2024
 5. C.A. @ SLP (C) No. 15529/2024
 6. C.A. @ SLP (C) No. 14906/2024

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

**THE OTHER SIXTEEN APPEALS³ – DHARUHERA VILLAGE
ACQUISITION BY SECTION 4 NOTIFICATION OF 12.12.2008**

5. Insofar as the other sixteen matters are concerned, they pertained to acquisition in village Dharuhera and were the subject matter of acquisition by a Section 4 notification, issued on 12.12.2008. By the said notification, lands of the appellants were proposed to be acquired for Institutional Sector 5A under the Haryana Urban Development Authority Act, 1977. The lands were situated in villages Dharuhera, Garhi Alawalpur and Maheshwari, Sub-Tehsil Dharuhera, District Rewari, Haryana. On 11.12.2009, a declaration under Section 6 was issued. The Land Acquisition Collector ('LAC' for short), by his award of 30.11.2011, determined the market value of the land at Rs. 21,00,000/- per acre based on the Divisional Level Land Rate Fixation Committee report, though the demand of the landowners was Rs. 2,00,00,000/- per acre. Other statutory benefits were allowed and a total compensation of Rs. 12,46,27,371/- was awarded to all the landowners whose lands were acquired pursuant to notification dated 12.12.2008.

6. The appellants filed petitions under Section 18 of the LA Act, seeking a reference for appropriate enhancement. The reference came to be decided in LAC No. 122 of 2016 and LAC No. 123 of 2016. Principally, it was contended that the State of Haryana has notified Dharuhera Revenue Estate as a Municipal Committee Town in 2007; that the acquired land was located on a prime stretch near developed sectors and industrial areas in Dharuhera and had a significant development potential; that the land is situated very near to the industrial, commercial and residential sectors, already developed by the Haryana Urban Development Authority (for short 'HUDA'); that the land is adjoining to developed residential and industrial area of Bhiwadi also known as RIICO Industrial and Commercial Complex

3 1. C.A. @ SLP(C) Nos. 5544-5545/2023 (2 Matters)
 2. C.A. @ SLP(C) Nos. 4044/2023
 3. C.A. @ SLP(C) Nos. 4051/2023
 4. C.A. @ SLP(C) Nos. 4045/2023
 5. C.A. @ SLP(C) Nos. 4058/2023
 6. C.A. @ SLP(C) Nos. 4052-4056/2023 (5 Matters)
 7. C.A. @ SLP(C) Nos. 4048/2023
 8. C.A. @ SLP(C) Nos. 4298/2023
 9. C.A. @ SLP(C) Nos. 9166/2023
 10. C.A. @ SLP(C) Nos. 15189/2023
 11. C.A. @ SLP(C) Nos. 15188/2023

Supreme Court Reports

Bhiwadi; that the acquired land is situated on the main road of Sectors 4 and 6 of Dharuhera and also on Dharuhera-Bhiwadi-Sohna Road; that HUDA had constructed main sector roads adjoining to sector 4 and 6, fully developed by HUDA from Dharuhera-Bhiwadi NH No. 71B road to Highway No. 8 more than 10 years ago; that the developers have constructed residential multistorey flats spreading over 60 acres; that commercial complexes have also been constructed; that the market price is not less than Rs. 15,000/- per sq. yard for residential flats and commercial/institutional plots; that the land is adjoining State Bank of India and very near to bus stand and Jungle Babbler Tourist Complex of Govt. of Haryana; that the Modern Public School, residential multistorey flats and petrol pumps are situated opposite to the acquired land; that similarly hospitals and a Senior Secondary School and residential complex are located on Highway No. 8, near the acquired land; and that the Director, Town and Country Planning, Haryana notified draft development plan of the Dharuhera town as a residential-cum-commercial and industrial zone on priority basis as the distance to Delhi was only 60 kms. They further contended that the LAC failed to consider the market value of the surrounding location of the already sold land where the value per acre was Rs. 1,80,72,289/- by sale deed dated 13.05.2006 (Exh.PW4/G) and sale deed dated 17.05.2006 (Exh. PW4/C) where the land was sold for Rs.1,00,00,000/- per acre. A site plan Exh.PW6/1 was filed before the Reference Court. We will deal with the site plan a little later in this judgment.

7. At the hearing before the Reference Court, Mr. Motiram, Patwari of LAC Office Gurugram, testified that the land of the appellants were located on Highway No. 8 adjoining to Sector 6 and 4 developed by HUDA at Dharuhera; that the land was adjoining to Bhiwadi (RIICO Industrial Area) which was well developed for many years; though he denied that the market value of the land was Rs. 15,000/ per sq. yard.

ACQUISITIONS IN MALPURA AND KAPRIWAS VILLAGES – SECTION 4 NOTIFICATION OF 13.05.2010

8. At this stage, we need to digress a bit and deal with the acquisition that was happening in the adjoining villages of Malpura and Kapriwas for development of Dharuhera Industrial Sectors 15, 16 and 17. On 13.05.2010, a Section 4 notification was issued with regard to those areas, followed by a Section 6 declaration on 12.05.2011. For those lands, the LAC, by his award of 10.05.2013, awarded staggered rates

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

of Rs. 40,000/- per acre, Rs. 48,000/- per acre and Rs. 50,000/- per acre, based on the recommendations of the District Collector, Rewari who was a member of the Divisional Level Land Rates Fixation Committee. The land losers filed reference in LAC No. 208 of 2016. By the judgment of 21.11.2018, the Reference Court held that the most relevant sale deed in that reference was Exh.PW4/3, a sale deed executed on 13.08.2008 pertaining to village Malpura near to the lands acquired therein. The sale deed involved lands to the extent of 12 kanals and 2 marlas. The sale consideration was Rs. 2,16,00,000/- (Rs. 1,42,80,960/- per acre). Applying 60% deduction for development costs, the Reference Court fixed the market value at Rs. 67,12,050/- per acre along with statutory benefits. In appropriate cases, compensation for super structure was also awarded.

REFERENCE COURT DECISIONS IN THE DHARUHERA ACQUISITION

9. Coming back to the land of the appellants in the sixteen matters, their reference LAC No. 122 of 2016 and LAC No. 123 of 2016 came to be decided on 29.07.2019. This reference, in turn, relied on the reasons in ***Inderpal vs. State of Haryana & Ors.*** delivered in LAC No. 119 of 2016 which also arose under the same acquisition and notification of 12.12.2008 (Section 4) and 11.12.2009 (Section 6). The Reference Court in LAC No. 119 of 2016 which was the relied upon judgment in LAC No. 122 of 2016 and LAC No. 123 of 2016 had, in turn, relied upon the judgment in LAC No. 208 of 2016 which pertained to acquisition in village Malpura and Kapriwas, pursuant to notification dated 13.05.2010 (under Section 4) and 12.05.2011 (under Section 6). The reasons why the Reference Court relied on LAC No. 208 of 2016 were set out in the following terms:-

“16.....This court is alive of Award/Judgments passed by it regarding acquisition of a **adjoining village** Malpura passed by this court on 21.11.2018 in LA Case No.208 of 2016 titled as ‘Sultan Singh Vs State of Haryana & Others (set of 53 cases) vide which compensation was assessed at the rate of Rs.67,12,050/- (Rupees Sixty-Seven Lac Twelve & Fifty only) per acre, irrespective of the nature of land, in respect of the land of village Malpura, which was acquired for the purpose for development of **industrial Sector 15,16 & 17 Dharuhera and present set**

Supreme Court Reports

of 18 petitions are for the purpose of development & utilization of institutional sector 5A Dharuhera.

17. Justice cannot be causality in the game of litigation and Court on its own is competent to change the rules of the game to do justice. It was so observed by Hon'ble Delhi High Court in case-law Hoshiar Singh Mann Vs Charan Singh - 2009(162) DLT 208; Law Finder Doc Id#203842. Hence, this court gone directing the Reader of the court to retrieve from the National eCourts portal (www.ecourts.gov.in) above- referred judgment dated 21.11.2018 of this court passed in LA Case No.208 of 2016 titled as 'Sultan Singh Vs State of Haryana & Others' and place it on the records of this case-file and henceforth said judgment would be referred as Exh.C1.

18. Perusal of award dated 21.11.2018 (Exh.C1) passed by this court in LA Case no.208 of 2016 titled as 'Sultan Singh Vs State of Haryana & Others; notification under Section 4 of the Act in said case was issued on 13.05.2010. **The land acquired in Exh.C1 pertains to village Malpura and for the purpose of development of industrial sector-15, 16 & 17 Dharuhera. The land acquired in present matter is of village Dharuhera for the development & utilization of land as institutional sector-5A Dharuhera. The acquired land in both the matters is for the purpose of development & utilization of sectors Dharuhera, but there is a difference in the date of notification under Section 4 in both the matters as notification in the present case is one year five months prior to the notification**' of award dated 13.05.2010 (Exh.C1). Case-law Harbhajan Kaur Vs Union Territory Chandigarh -2009(9) PLR 520 (P&H) become relevant on this point as therein award for adjoining village was made six months prior and Hon'ble High Court placed reliance thereupon by making reasonable cut of 6% for the time gap in the two notifications. Since basic rule is of 12% increase/decrease and Hon'ble High Court in case-law Harbhajan Kaur (supra) has applied cut of 6% for six month's time gap, so on that analogy a reasonable cut of 12% can well be applied in the present matter for time gap of one year & five months (17 months) in the two notifications.

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

19. In view of peculiar facts & circumstances of the case, this court has arrived at the conclusion that the acquisition in the present case was made seventeen months prior to the notification pertaining to award Exh.C1. If a Reasonable cut of 12% is applied over Rs.67,12,050/- (compensation awarded in Exh.C1) for the time gap in the **two** notifications, the value of the acquired land in the present case comes to Rs.55,71,010/- per acre. Accordingly, it is held that the landowners in the present set of petitions shall be entitled to compensation for the acquired land at the rate of Rs.55,71,010/- (Rupees Fifty Five Lac Seventy One Thousand & Ten only) per acre. They shall also be entitled to all the statutory benefits available under the Act and this issue is decided, accordingly.”

(Emphasis supplied)

10. It will be clear from the above reasoning, the Court considered placing reliance on award in LAC No. 208 of 2016 pertaining to the adjoining village of Malpura will not be mechanical for the reason that acquisition was for development of industrial sectors 15, 16 & 17 Dharuhera whereas in LAC No. 119 of 2016 (similar to LAC No. 122 of 2016 and LAC No. 123 of 2016) is for development and utilization of Institutional Sector 5A Dharuhera. Considering the difference in the date, the Court applied the principle of reverse deduction and fixed the compensation at Rs. 55,71,010/- per acre along with statutory benefits for the land losers in LAC No. 119 of 2016 (similar to LAC No. 122 of 2016 and LAC No. 123 of 2016).
11. The land losers in the present appeal(s) filed appeal in RFA No. 4240 of 2019 and batch before the High Court of Punjab and Haryana. The State of Haryana also filed appeals challenging the award in ***Inderpal case (Supra)*** in RFA No. 701 of 2022.

**HIGH COURT PROCEEDINGS IN THE MALPURA-KAPRIWAS
ACQUISITIONS**

12. Simultaneously, there were developments before the High Court in the Regular First Appeals filed by the land losers and the beneficiary in the reference arising out of LAC No. 208 of 2016. In the said RFAs, namely, RFA No. 1350 of 2019 and RFA No. 3991 of 2019, the High Court allowed the appeal(s) of the land losers on 02.11.2021 under

Supreme Court Reports

the notification of 13.05.2010 (Section 4) and dismissed the cross objections of the beneficiary and enhanced the compensation from Rs. 67,12,050/- per acre to Rs. 1,21,33,320/- per acre. The High Court held as follows:-

“4.12 Keeping in view the aforesaid discussion, it is evident that the Reference Court has committed an error in deducting 60% from the sale exemplar produced by the landowners and relied upon by it.”

4.15In the considered view of this Court, once the land measuring 12 Kanals & 2 Marlas, which is more than one and a half acre, located across the National Highway (the-eastern side of the National Highway) has been sold @ ₹ 1,42,80,916/- per acre, then, it was not appropriate for the Reference Court to apply 60% cut. One and a half acre of land is not a small area of land. Further, the acquired land cannot be said to be used only for agricultural purposes particularly when the companies have started purchasing the same. In fact, Delta Cables Limited has purchased the land measuring, 12 kanals & 2 Marlas.

4.16 From a careful perusal of the layout plan (Ex.R12) along with the sale deeds, it becomes evident that the sale instance (Ex.P2) is with respect to the land measuring 6 Kanals & 19 Marlas. This is with respect to the land comprised in rectangle No. 49, 50, 51 and 52, located in village Kapriwas, which has also been acquired under the same notification. The layout plan clearly shows that the aforesaid parcel of land is abutting the boundary of village Malpura. In fact, there is no physical boundary between the villages. It is only a notional/fictional boundary so as to identify the land located in different villages. Furthermore, it is evident that in village Malpura, the land abutting the Delhi-Jaipur Highway upto the depth of approximately 10 acres has been acquired. It is significant to note that the land in village Malpura was sold @ ₹ 1,42,80,991/- per acre vide a sale deed dated 13.08.2008 (Ex.PW.4/3). However, this parcel of the land is comprised in rectangle No. 29 and khasra No. 4 & 5, which is on the other side (western side) i.e. across the National Highway-8. Although this parcel of land is not comparable however, it corroborates

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

Ex.P2 with respect to the market value of the acquired land. Moreover, in additional evidence, the landowners have produced the sale instance dated 15.02.2010 with respect to the land measuring 5 Kanals & 2 Marlas sold @ ₹ 2,23,72,463/- per acre. This parcel of the land is also located on the western side of the National Highway-8 and at some distance from the acquired land.

4.17 Since the most appropriate sale exemplar appears to be Ex.P2, which is not only abutting the acquired land but also forms a part of the acquired land, therefore, it is safe to rely upon the same. However, the sale instance is of 19.06.2008, whereas the notification under Section 4 of the 1894 Act was issued on 13.05.2010. The Court is required to determine the market value of the acquired land as on 13.05.2010. From a careful perusal of the sale exemplar (Ex.PW4/3) and the sale deed produced in additional evidence (Ex.PY), it becomes evident that the price of the land was increasing quite rapidly. The location of the acquired land is prime. **In fact, the Industrial Estate of Dharuhera has already been developed and a lot of builders/developers/industrialists have already started purchasing the properties in and around the Industrial Estate of Dharuhera.** Hence, it will be safe to assume that the market value of the land was increasing @ 10% per annum. Taking into consideration the aforesaid facts, the amount arrived at comes to ₹1,21,33,320/- per acre. **The Court is expected to take a pragmatic view while assessing the market value, particularly when the parcel of land covered by Ex.P2, although situated in village Kapriwas, is abutting the acquired land of village Malpura. The land sold through Ex.P2 has also been acquired Hence, the market value of the land is assessed at ₹1,21,33,320/- per acre.**”

(Emphasis supplied)

13. Ultimately, the High Court with regard to the lands pertaining to acquisition made under the notification of 13.05.2010 (Section 4) fixed the compensation at Rs. 1,21,33,320/- per acre along with other statutory benefits. Holding so, it allowed the appeal(s) of the

Supreme Court Reports

land losers and dismissed the cross objection of the beneficiary. The same result followed in RFA No. 3091 No. 2019 (*HSI/DC v. Deepak Kumar & Ors.*)

14. The land losers under the notification of 13.05.2010 (Section 4) who were ordered to be paid Rs. 1,21,33,320/- per acre, aggrieved, filed Special Leave Petition (C) No. 4487 of 2022 & batch and Special Leave Petition (C) No. 6127 of 2022 and batch before this Court which was later converted to Civil Appeal No. 5376 of 2023 and Civil Appeal 2237 of 2024 respectively.

HIGH COURT PROCEEDINGS IN THE DHARUHERA ACQUISITIONS:- PRESENT APPEALS

15. Pending those appeals in this Court, the High Court took up the appeals (RFA) of the landowners in the present appeals. Since the Reference Court had found justification for reliance on the award in LAC No. 208 of 2016 (arising out of acquisition notification 13.05.2010 with appropriate reverse deduction), the land losers pointed out to the High Court that in those matters there has been further enhancement from Rs. 67,12,050/- to Rs. 1,21,33,320/- and wanted at least parity, if not a further increase. The High Court held that there was no evidence to prove that the acquired land in village Malpura vide notification dated 13.05.2010 was comparable in its geographical location, valuation and other factors and hence the Reference Court erred in placing reliance on the award in LAC No. 208 of 2016.
16. The High Court also faulted the Reference Court for not considering the sale deeds produced by the parties including sale deeds which reflected a price lesser than the amount offered by the LAC. The High Court referred to the layout plan produced by the State and relied on Exh. PW4/D dated 02.05.2006 and rejected the other sale deeds and after applying cumulative increase @ 12% per year from the sale deed amount of Rs. 40,55,000/- per acre, arrived at a figure of Rs. 54,42,653/-. Thereafter, the High Court concluded that the awarded amount by the Reference Court of Rs. 55,71,010/- was broadly the same. For reasons other than the one adduced by the Reference Court, the High Court confirmed the judgment of the Reference Court and dismissed the appeals of the landowners as well as the State. Aggrieved, the landowners are in appeal(s).

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

**PROCEEDINGS IN THIS COURT IN THE MALPURA-KAPRIWAS
ACQUISITION**

17. In the meantime, this Court, by its judgment of 23.08.2023 and 13.02.2024 decided Civil Appeal No. 5376 of 2023 and Civil Appeal No. 2237 of 2024 and enhanced the compensation with respect to lands acquired in village Malpura vide notification dated 13.05.2010 and village Kapriwas from the awarded amount of Rs. 1,21,33,320/- to Rs. 1,49,14,975/- per acre along with statutory benefits. This Court held that the applicable deduction should be 33% and not 60% and enhanced the compensation to Rs. 1,49,14,975/-. During the course of the discussion, this Court observed as follows:

“The landowners based on the potential of the acquired land claim commensurate market value as of 13.05.2010. The acquired land is in a controlled area declared by the State of Haryana. Industrial Estate Dharuhera, Primary School at Village Maheshwari, Ghatal Mahaniawas and Aakera are at a proximate distance. The acquired land is claimed as situated in the industrial zone at Sector 15, Dharuhera. Apart from the advantageous neighborhood of establishments and industries, the land under acquisition is located alongside National Highway No. 8, i.e., Delhi-Jaipur Highway and Industrial Sectors 15, 16 & 17. Further, land sectors 8, 9, 10, 12 & 13 are opposite the industrial sectors of 17 and 16 across National Highway No. 8. Many development activities have occurred in and around the land acquired. The landowners refer to the existence of industrial units such as Penam Labs, U.B. Group, Capsu Gel, Weston, Hero Motors Ltd., RIICO, Omax, Sona Koya, M. Teck, Bestech, Utility Engineering, Luthra, IST etc. within a radius of 1 k.m. of the acquired land. The acquired land had change in land use (CLU) under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963. The gist is that the acquired land cannot be treated as an agricultural land.”

CONTENTIONS IN THE PRESENT APPEALS

18. We have heard Mr. S. B. Upadhyay, Ms. Kavita Wadia and Mr. Gagan Gupta, Learned Senior Counsels for the appellants and Mr. Alok Sangwan, Learned Additional Advocate General for the respondents.

Supreme Court Reports

19. Learned Senior Counsels for the appellants have assailed the judgment of the High Court by contending that the High Court could not have solely gone by the exemplar in exhibit PW-4/D; according to them even sale exemplars PW-4/C dated 17.05.2006 with a per acre rate of one crore, PW-4/E sale deed dated 29.05.2006 with a per acre rate of Rs. 95,00,000/-, PW-4/F sale deed dated 29.05.2006 with a per acre rate of Rs. 95,00,000/-, and PW-4/H sale deed dated 08.01.2007 with a per acre rate of Rs. 1,80,72,289/- were also equidistant from the acquired land though from the opposite side; that the High Court itself noticed that some part of the acquired land was near PW-4/C; that PW-4/E and PW-4/F were the most appropriate; that it is well settled that where there are several exemplars, the highest exemplar ought to have been taken and for this proposition they relied on ***Mehrawal Khewaji Trust (Registered), Faridkot and Ors. v. State of Punjab and Ors., (2012) 5 SCC 432***. According to the appellants, if the value of PW-4/E and PW-4/F dated 29.05.2006 is taken and 12 % p.a. upward increase is added the compensation would work out to approximately Rs. 1,17,80,000/- per acre. Learned counsel for the appellants further contend that the acquired land touches the main Highway NH-71B Sohna Road; that it had a big residential colony opposite to it namely, Sector 4A, Dharuhera and there are multiple schools and townships within 1KM.
20. According to the appellants, the land is surrounded by Multinational Companies like Honda, Sehgal Papers, Cool Beverages, Lumax Industries Ltd., K.J. Auto Parts and Real Estate Developers like M2K and Dwarkadhish. According to the appellants, their lands are also adjacent to the HSIIDC Dharuhera, Huda sectors and Municipal Committees of Dharuhera. Learned Counsel for the appellants relied on the recent judgment of this Court in ***New Okhla Industrial Development Authority v. Harnand Singh (Deceased) through Lrs and Ors., 2024 SCC OnLine SC 1691***, to contend that the sale deed which is a sole exemplar if relied upon as the sole foundation would inadequately represent the value of the land, apart from being significantly risky.
21. Strong reliance was placed upon the judgments of this Court in ***Besco (supra)*** and ***Habitat (supra)***, wherein this Court enhanced the compensation to Rs. 1,49,14,975/-. According to the learned Senior Counsels, the proximity of the appellants' land in village Dharuhera to the lands acquired in village Malpura, Kapriwas and Sidhrawali

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

was apparent from the map produced by them in the courts below. According to them, the land in village Malpura which was acquired, adjoins their land in Dharuhera and they sought parity with the landowners in **Besco (supra)** and **Habitat (supra)**. According to the appellants, even the Reference Court found justification for applying the market value arrived at in LAC No. 208 in 2016, as the base figure to work out reverse deduction.

22. According to the learned Counsel, if in RFAs arising out of LAC No. 208 of 2016 the value stood enhanced from Rs. 67,12,050/- per acre to Rs. 1,21,33,320/- by the High Court and thereafter, to Rs. 1,49,14,975/- by this Court there is no reason not to treat this value as the base figure to work out reverse deduction. According to them, the distance between Malpura and Dharuhera is only 5 km and equally the distance between Dharuhera and Kapriwas is also 5 km. According to the appellants, while in LAC No. 208 of 2016 land was acquired for industrial sector 14, 15, and 16 Dharuhera under the 13.05.2010 notification under section 4, the appellants' lands were acquired by notification of 12.12.2008 for institutional sector 5 Dharuhera. According to the appellants, that being so, the potential of the land could not have been ignored. According to the appellants, the High Court has noticed that Dharuhera and Garhi Alawalpur were adjoining villages and having held so it committed an error in ignoring all other sale deeds except exhibit PW-4/E.
23. A perusal of the chart of the exemplars set out in the impugned order reveals that exhibit PW-4/H dated 08.01.2007 was a sale deed of village Garhi Alawalpur where the market value was Rs. 1,40,00,000/- per acre. Equally, exhibit PW-4/I a sale deed dated 10.07.2010 in land situated in village Dharuhera the market value of land was Rs. 1,30,00,000/-. According to the learned Counsel, it is well settled that if comparable sales are not available in the same village, it is always open to the Reference Court to consider sales in the adjoining villages during the relevant period. Learned Counsels relied upon the judgments which showed that compensation awarded in respect of other villages, under certain circumstances, can be relied upon for fixing the compensation of lands by providing appropriate appreciation or deduction depending on the facts obtaining in the case. Learned Counsel submitted that the potentiality of the land was the same insofar as their lands were concerned like it was in the case of lands acquired in the village Malpura and Kapriwas by

Supreme Court Reports

the notification of 30.05.2010. Learned Counsel contended that the land has immense potentiality.

CONTENTIONS OF THE STATE

24. Learned Counsel for the State has encountered the submission of the appellants and submitted that the value fixed in ***Besco (supra)*** and ***Habitat (supra)*** cannot be applied to the appellants' land since the lands were acquired in the appellant's case by a different notification of 12.12.2008 and the lands in ***Besco (supra)*** and ***Habitat (supra)*** were acquired by a Section 4 notification of 13.05.2010. Apart from this, the lands in ***Besco (supra)*** and ***Habitat (supra)*** were situated in villages Malpura and Kapriwas, whereas the lands of the appellants were situated in village Dharuhera. Further, the lands were not comparable according to the counsel for the State, since the acquired land in ***Besco (supra)*** in village Kapriwas was situated on National Highway, whereas the land in question is far away from the National Highway. According to learned Counsel for the State, exhibit PW-4/D was rightly relied upon by the High Court since the land is only 3 km. away from the acquired land. According to the learned Counsel for the State, the other exemplars were rightly rejected. According to the counsel for the State, in ***Besco (supra)*** the land losers had acquired change of land use by paying heavy statutory charges and as such the market value is not comparable. Learned Counsel for the State relied on the order passed in SLP (Civil) No. 11275 of 2016 [***Rajbir and Others vs. State of Haryana and Ors.***] and batch to support the proposition that the award of the subsequent acquisition with appropriate deduction could not have been adopted by the Reference Court.

RELEVANT LEGAL PRINCIPLES

(i) PRINCIPLE OF DE-ESCALATION AND ESCALATION

25. In ***Peerappa Hanmantha Harijan (Dead) by Legal Representatives and Others vs. State of Karnataka and Another***, (2015) 10 SCC 469, finding that lands which were acquired by a later notification in 1988 were adjacent to the lands acquired in the case in question in 1981, this Court applied the principle of de-escalation. The relevant parts of the judgment are set out hereunder:

“77. Further, the land which has been covered under notification in 1988 is also adjacent to the residential sites

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

which were formed. The landowners in that case produced the sale deeds of the years 1986 and 1988 respectively, which was 2 years and 2 months earlier respectively to the notification issued in the year 1988 and some of which were two to three years earlier. Taking the said relevant facts into consideration, the High Court of Karnataka redetermined the compensation at Rs 7.5 per square feet of land bearing Survey No. 389 covered in award passed in MFA No. 3796 of 2005 and Cross-Objection No. 213 of 2005 after giving deduction towards the developmental charges, de-escalation and conversion charges. The same method should be applied in the case on hand.

78. Further, the High Court ought to have taken into consideration the relevant fact that though the final notification for the land covered in MFA No. 3796 of 2005 and Cross-Objection No. 213 of 2005 was in the year 1988, it was for industrial development and the said land was also leased in favour of the allottee Company by KIADB to be used for the industrial development. The land along with the other lands covered in the 1981 notification was also acquired by the State Government for the purpose of the industrial development and allotted to the Company for the development of the industrial estate. Therefore, apart from the fact that there was a gap of 7 years in which the lands of the appellants were notified for acquisition to the land covered in MFA No. 3796 of 2005 and Cross-Objection No. 213 of 2005, it is an admitted fact that there is similarity in the nature of the land and the purpose for which they were acquired.

80. As per the survey conducted by the State Government, it is an undisputed fact that mineral is available in the land and the Company is extracting the same to be used as raw material for the manufacture of cement in its factory. Therefore, though the land in the present case is a short distance away from the lands covered in MFA No. 3796 of 2005 and Cross-Objection No. 213 of 2005, both have been acquired for the purpose of industrial development and sought to be used for the same purpose by the Company. The land of the appellants herein along

Supreme Court Reports

with other lands that was acquired vide notification in 1981 has been allotted in favour of the Company for the purpose of extracting the mineral of limestone which is the raw material used for the purpose of manufacturing the cement used for the commercial purpose. Therefore, the land of the appellants is acquired for the non-agricultural potentiality and the same is used for commercial purpose. Therefore, determining deductions towards de-escalation at 5% per year for 7 years and 10% towards waiting and other incidental charges would justify the redetermination of the market value of the land of the appellants.”

26. Moreover, in ***Chandrashekar (dead) by LRs and Others vs. Land Acquisition Officer and Another***, (2012) 1 SCC 390, this Court, while recognising the Principle of De-escalation held in Para 37, 40 and 42 as under:-

37. Even though escalation of market price of land is a question of fact, which should ordinarily be proved through cogent evidence yet, keeping in mind ground realities, and taking judicial notice thereof, we are of the view that land prices are on the rise throughout the country. The outskirts of Gulbarga Town are certainly not an exception to the rule. The exemplar sale deed dated 30-12-1983 was executed exactly 1 year 7 months and 17 days after the publication of the preliminary Notification on 13-5-1982. **Keeping in mind the judgments referred to hereinabove, we are of the view, that no fault can be found with the determination rendered by the High Court in making a deduction of 10% under the head of “de-escalation”, specially when the period in question exceeded one year (as for annual deductions), by 7 months and 17 days.**

40. Based on the aforesaid deductions, the High Court calculated the market value of the acquired land at Rs 67,954 per acre. **In spite of the above, the market value of the acquired land for disbursement of compensation to the land-losers was fixed by the High Court at Rs 65,000 per acre. A perusal of the judgment rendered by the High Court reveals that in allowing**

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

final compensation at the rate of Rs 65,000 per acre to the land-losers, the High Court had placed reliance on market value fixed by the High Court itself in an earlier case. In this behalf, it would be pertinent to mention, that the High Court had awarded Rs 65,000 per acre as compensation payable to the land-losers, in an earlier process of litigation pertaining to acquisition of land, out of the same notification (under which the appellants' land was acquired). The aforesaid determination was rendered in respect of the land acquired from the revenue estate of Badepur Village.

42. The conclusions drawn by us hereinabove apply equally to Civil Appeals Nos. 8899-901 of 2011. In this behalf it would also be pertinent to mention, that the conclusions drawn by us pertain to acquisition of land falling in the revenue estate of Village Badepur. Insofar as the instant set of appeals are concerned, they pertain to land acquired from the revenue estate of Village Rajapur. The High Court, while making a reference to the land acquired from Village Rajapur, noticed that Village Rajapur had a lower market value as it was farther from the nerve centre of Gulbarga Town as compared to Village Badepur. As such, we are of the view that in the facts and circumstances of the present case, it would be just and appropriate to affirm the compensation determined by the High Court at Rs 65,000 per acre, even for the land acquired from the revenue estate of Village Rajapur.”

27. Similarly, in ***Sardara Singh and Others vs. Land Acquisition Collector, Improvement Trust, Rupnagar and Others***, (2020) 14 SCC 483, this Court considered as the base value award of the previous acquisitions of lands from adjoining villages to the village in question. In that case, the Court applied the principle of escalation. Para 9,11 and 12 of the said judgement are set out hereinbelow:-

“9. What emerges, therefore, is that in respect of lands coming from Kotla Nihang, which were acquired vide Notification dated 20-3-1985, the compensation was awarded @ Rs 4,84,000 (Rupees four lakh eighty-four thousand) per acre and in respect of lands which were acquired from Village Haveli Khurd vide Notification dated

Supreme Court Reports

12-4-1989 the compensation was awarded @ Rs 5,25,000 (Rupees five lakh twenty-five thousand) per acre. **Mr Jain relied upon the site map appended at page 178 of the paper book to bring home the point that these two villages are adjoining to the village, with which we are presently concerned.**

11. The fact that the acquisition in the aforesaid two villages was relied upon before the Land Acquisition Tribunal is quite evident from the discussion as aforesaid. The location and the potential of the lands under acquisition and their proximity with the lands from Kotla Nihang and Haveli Khurd was the basis of computation in the award dated 9-11-2001 which was set aside purely on a technical ground.

The rates awarded in respect of those acquisitions were Rs 4,85,000 (Rupees four lakh eighty-five thousand) and Rs 5,25,000 (Rupees five lakh twenty-five thousand) per acre. **The acquisitions were of the years 1985 and 1989. We are presently concerned with acquisitions which were initiated pursuant to notifications issued in the year 1993.**

12. In our view, the compensation as awarded in respect of these two villages is a pointer which cannot be disregarded. The extent of land involved in the present matters is 25 acres of land which was to be used for Transport Nagar Scheme, essentially an urban requirement. We, therefore, rely upon rate of Rs 5,25,000 (Rupees five lakh twenty-five thousand) per acre, as awarded in the year 1989 to be the base rate to arrive at the appropriate compensation for the acquisition in 1993 i.e. after four years. **In the circumstances, in our view, the appellants are entitled to 6% cumulative increase over the base rate of Rs 5,25,000 (Rupees five lakh twenty-five thousand) irrespective of the category of land is awarded to the landholders.”**

28. In ***Sardara Singh (Supra)***, this Court also distinguished the judgment in ***Manoj Kumar and Others vs. State of Haryana and Others***, (2018) 13 SCC 96 and stated that the observations in the said case were made in the context of the peculiar facts of the matter.

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

RELEVANCE OF PRIOR AWARDS

29. In *Manoj Kumar (Supra)*, this Court in Para 11,12,13,14 and 16 held as under.

“11. In our opinion, the High Court could not have placed an outright reliance on *Swaran Singh v. State of Haryana*, 2012 SCC OnLine P&H 19044, without considering the nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. **However, in the instant case, it appears that the land in *Swaran Singh case* was situated just across the road as observed by the High Court as such it is relevant evidence but not binding.** As such it could have been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bona fide nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting determination in a mechanical manner without considering the merit. Such determination cannot be said to be binding.

12. We have come across several decisions where the High Court is adopting the previous decisions as binding. **The determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent sale deeds after the award and before preliminary notification under Section 4 are also to be considered, if filed. It is not proper to ignore the evidence adduced in the case at hand.**

Supreme Court Reports

The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a piece of evidence, not beyond that.

The court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe basis for determining compensation.

13. The awards and judgment in the cases of others not being inter partes are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequals. As per situation of a village, nature of land, its value differ from distance to distance, even two to three kilometre distance may also make the material difference in value. Land abutting highway may fetch higher value but not land situated in interior villages.

14. The previous awards/judgments are the only piece of evidence on a par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be outrightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed; on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.

16. To base determination of compensation on a previous award/judgment, the evidence considered in the previous judgment/award and its acceptability on

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

judicial parameters has to be necessarily gone into, otherwise, gross injustice may be caused to any of the parties. In case some gross mistake or illegality has been committed in previous award/judgment of not making deduction, etc. and/or sufficient evidence had not been adduced and better evidence is adduced in case at hand, previous award/judgment being not inter partes cannot be followed and if land is not similar in nature in all aspects it has to be outrightly rejected as done in the case of comparative exemplars. Sale deeds are on a par for evidentiary value with such awards of the court as court bases its conclusions on such transaction only, to ultimately determine the value of the property.”

30. Even in *Manoj Kumar (Supra)*, this Court did not hold that awards in other cases which are relevant cannot be relied upon at all. What is held was such awards will be relevant as a piece of evidence and not be conclusive in nature.

POTENTIALITY FACTOR:-

31. It is also well settled that potentiality of the land is also to be taken into consideration while assessing the market value. It has been held that potentiality is the use to which the land is put to use or reasonably capable of being put to use. [See *Bijender and Others vs. State of Haryana and Another*, (2018) 11 SCC 180, *Vithal Rao and Another vs. Special Land Acquisition Officer*, (2017) 8 SCC 558, *Ravinder Narain vs. Union of India*, (2003) 4 SCC 481, *Atma Singh vs. State of Haryana*, (2008) 2 SCC 568 and *U.P. Awas Evam Vikash Parishad vs. Asha Ram (Dead) through legal representatives and Others* (2021) 17 SCC 289].
32. Mr. Alok Sangwan, Learned Additional Advocate General relied on the judgment in *Rajbir (Supra)*. The said short order observed that the High Court in that case went wrong in placing reliance on a subsequent acquisition, by introducing method of appropriate reduction. Those observations have to be understood as having been made on the special facts of that case. It is not clear from the said order whether the lands subjected to acquisition were proximate and adjoining to the lands in the subsequent acquisition and whether they were having similar characteristics. Hence, that case can be of no use to the State.

Supreme Court Reports

ANALYSIS OF FACTS:-

33. We have carefully considered the contentions of the respective sides. Having considered the respective submissions and perused the records, including the sketch PW6/1, we find that the following facts emerge:-

- a) Firstly, Dharuhera Village was notified as a municipal land and Municipal Committee was also notified on 20.07.2007;
- b) Secondly, the lands acquired under the notification of 18.05.2010 (Section 4) of villages Malpura and Kapriwas were for development of Dharuhera industrial sectors 15, 16 and 17 and the lands notified of the appellants herein on 12.12.2008 (Sector 4) were for Dharuhera Institutional Sector 5A;
- c) Thirdly, the villages are adjoining as the sketch PW-6/1 indicates. The acquired lands in the notifications of 12.12.2008 and 13.05.2010 were on the two sides of the NH-8 Jaipur-Delhi Highway;
- d) Fourthly, the sketch also indicates that the Revenue Estate Malpura and Bestech Mall are adjoining to the acquired lands;
- e) Fifthly, the acquired lands are surrounded by Modern Senior Secondary School, Huda Sector 4 residential colony, bus-stand, commercial shops, Bajrang Nagar residential colony, Parshavnath residential flats, M2K city, Bhagat Singh residential colony and other developed areas. Hence, the lands had immense potentiality and that it could have been put to multifarious use cannot be disputed.
- f) Sixthly, the Reference Court, in the present case, relied upon the judgment of the Reference Court in **Besco (supra)**, after finding that both pertain to sectors of Dharuhera with the appellants' land forming part of Sector 5A and the lands in **Besco (supra)** forming part of Sector 15, 16 and 17. It was categorically noticed that the villages were adjoining and the purpose of acquisition in both matters was development and utilization for sectors in Dharuhera (institutional and industrial respectively) and the difference was also in the date of the notification.
- g) Seventhly, the Reference Court, after taking the base value of the compensation, awarded in **Besco (supra)** applied de-escalation @ 12% for 17 months;

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

- h) Eighthly, a perusal of the exemplars cited by the appellants Exh. PW4/A-PW4/I of sale of lands in villages Dharuhera and Garhi Alawalpur between 29.12.2005 and 08.01.2007 show per acre price ranging from Rs.60,000/- per acre in 2005 to Rs.80,72,289/- per acre in May, 2006, though the extent of land is different in each of the sale deeds. The exemplar of sale deeds relied upon by the appellants are extracted hereinbelow:-

Sale Deeds adduced in evidence by the landowners

Sr. No.	Exhibit	Sale Deed No.	Date	Area	Sale Consideration	Rate per acre	Village
1.	PW4/A	2914	29.12.2005	118K-11M	8,89,12,500/-	60,00,000/-	Dharuhera
2.	PW4/B	2	03.04.2006	91K-11M	9,44,10,940/-	82,50,000/-	Dharuhera
3.	PW4/C	406	17.05.2006	28K-17M	3,60,62,500/-	1,00,00,000/-	Dharuhera
4.	PW4/D	245	02.05.2006	108K-8M	5,49,50,000/-	40,55,350/-	Dharuhera
5.	PW4/E	554	29.05.2006	25K-8M	3,01,62,500/-	95,00,000/-	Garhi Alawalpur
6.	PW4/F	556	29.05.2006	4K-4M	49,87,500/-	95,00,000/-	Garhi Alawalpur
7.	PW4/G	480	13.05.2006	33K-4M	7,70,00,000/-	1,80,72,289/-	Dharuhera
8.	PW4/H	2663	08.01.2007	92K-7M	16,16,12,500/-	1,40,00,000/-	Garhi Alawalpur
9.	PW4/I	1740	10.07.2010	32K-17M	5,33,81,250/-	1,30,00,000/-	Dharuhera

The exemplar sale deeds relied upon by the State is also set out herein below:-

Supreme Court Reports

Sale deeds adduced in evidence by the State

Sr. No.	Exhibit	Sale Deed No.	Date	Area	Sale Consideration	Rate per acre	Village
1.	R-5	683	04.02.2008	3K- 7M	8,80,000/-	21,01,492/-	Dharuhera
2.	R-6	1122	18.11.2008	17K-9M	45,81,000/-	21,01,492/-	Dharuhera
3.	R-7	1540	15.02.2009	2K- 0M	5,25,000/-	21,00,000/-	Dharuhera
4.	R-8	1657	09.01.2008	8K- 0M	19,00,000/-	19,00,000/-	Dharuhera

- i) The sale deeds produced by the State pertain to the period 09.01.2008 to 15.02.2009. What is important to note is there is vast difference in the prices in the exemplars produced by the appellants and by the State. In fact, the exemplars produced by the appellants were on or before the notification of the lands in question as a municipal land and before the constitution of the Municipal Committee, which happened on 20.07.2007. The High Court has rejected all, but PW4/D produced by the appellants on the ground that they were located distantly from the acquired lands and rejected all the sale deeds produced by the State on the same ground. A perusal of the sketch reveals that exemplar PW-4/E and F produced by the appellant is equidistant with PW4/D relied upon by the High Court. The value in PW4/E and 4/F which are sale deeds on 29.05.2006 for lands extending to 25 kanals and 8 marlas and 4 marlas and 4 marlas respectively is in the range of Rs.95,00,000/- per acre in 29.05.2006. PW4/E and 4/F are situated at Garhi Alawalpur.
- j) Ninthly, the reasoning given by the High Court to only rely on PW4/D is not satisfactory. Equally, the reasoning given by the High Court that there was no evidence to prove that the acquired lands in village Malpura vide notification dated 13.05.2010 was comparable with the then geographical location, and other factors of the lands of the appellant in these appeals is also bereft of merit. Not only does the map indicate the proximity of the lands, the Reference Court has rightly recorded that the villages were adjoining and the acquisition was all part of development of sectors in Dharuhera. The **Besco (supra)** lands were acquired for Dharuhera industrial sector 15,16 and

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

17 whereas the lands of the appellants were for Dharuhera institutional sector 5A.

Even though, in this case, the acquiring authority is the same and there is broad similarity in the purpose of acquisition, we may only do well to recall the telling observations of Chief Justice S.M. Sikri speaking for the 7-judge bench in ***Nagpur Improvement Trust & Anr v. Vithal Rao & Anr.*** (1973) 1 SCC 500:-

“29. Can classification be made on the basis of the public purpose for the purpose of compensation for which land is acquired? In other words can the Legislature lay down different principles of compensation for lands acquired say for a hospital or a school or a Government building? Can the Legislature say that for a hospital land will be acquired at 50% of the market value, for a school at 60% of the value and for a Government building at 70% of the market value? All three objects are public purposes and as far as the owner is concerned it does not matter to him whether it is one public purpose or the other. Article 14 confers an individual right and in order to justify a classification there should be something which justifies a different treatment to this individual right. It seems to us that ordinarily a classification based on the public purpose is not permissible under Article 14 for the purpose of determining compensation. The position is different when the owner of the land himself is the recipient of benefits from an improvement scheme, and the benefit to him is taken into consideration in fixing compensation. Can classification be made on the basis of the authority acquiring the land? In other words can different principles of compensation be laid if the land is acquired for or by an Improvement Trust or Municipal Corporation or the Government? It seems to us that the answer is in the negative because as far as the owner is concerned it does

Supreme Court Reports

not matter to him whether the land is acquired by one authority or the other.”

- k) Lastly, on the facts of the case and the evidence on record, we are convinced that reliance can safely be placed on the value of the land arrived at in **Besco (supra)** to treat it as base value for the appellants lands as was rightly done by the Reference Court. All that will be required is to apply appropriate percentage of de-escalation in accordance with the judgments of this Court and also provide for appropriate reduction for change of land use charges which the appellants would have incurred in case they wanted to change the land use themselves in the event of there being no acquisition.
34. Considering the factors mentioned above, we to start with take the value of the land fixed in **Besco (supra)**, namely, Rs.1,49,14,975 per acre as the base value. We may also notice that insofar as the exemplar that was relied on in **Besco (supra)**, Exh. PW4/3 therein, the sale deed executed on 13.08.2008 pertaining to the village Malpura and involving 12 kanals and 2 marlas of land sold @ Rs.1,42,80,960/- per acre. We are indicating this to only demonstrate that even before the notification as the municipal area, prices in Dharuhera as evident from the exemplars cited by the appellants, indicate a range of Rs.1,30,00,000/- per acre and Rs. 1,80,72,289/- per acre though for varying extent of lands. Hence, even the test laid down in **Manoj (supra)** as set out above is satisfied in the present case and we are convinced that reliance can safely be placed on the award in **Besco (supra)** to arrive at a base value.
35. Having arrived at the base value unlike the Reference Court, we are inclined to apply de-escalation @ 12 p.a. for one year and for the remaining five months an additional 6% on the base value. So doing, we arrive at the figure of Rs.1,23,37,668/- per acre.
36. Approaching from a different angle, we find that the market value arrived at is broadly the same. PW-4/E and PW-4/F pertain to sale made in Garhi Alawalpur on 29.05.2006 for a per acre price of Rs.95,00,000/-. If we apply 12% p.a. escalation on this price for 31 months from 29.05.2006 till 12.12.2008, (as was done by the High Court for PW-4/D), we arrive at the figure of Rs.1,27,50,976/- per acre. We have, however, taken the base figure as Rs.1,23,37,668/- only.

**Ram Kishan (Since Deceased) Through His Lrs Etc. v.
State of Haryana & Ors.**

37. One of the arguments of the State is that the land in **Besco (supra)** had change of land use (CLU) permission and the owners therein had paid CLU rates. We find merit in the contention of the State. To provide adjustment for them, deducting Rs. 5 lakhs per acre on a rough and ready estimate, we arrive at the figure of Rs.1,18,37,668/- as the base value on which statutory benefits under Section 23(1-A), 23(2) & 28 of the LA Act in accordance with law has to be paid after deducting the amounts already paid to the landowners.
38. In view of the above, we set aside the judgment of the High Court dated 20.09.2022 in RFA No. 701/2022 and batch and partly allow the appeals⁴. The appellants shall be paid a sum of Rs.1,18,37,668/- per acre and statutory benefits under Section 23(1-A), 23(2) & 28 of the LA Act in accordance with law after deducting the amounts already paid. Civil Appeal Nos. arising out of the Special Leave Petitions⁵ will be covered by the **Besco (supra)** judgment, namely, Civil Appeal No. 5376 of 2023. However, they will not be entitled to interest for the period of delay in filing/delay in refiling after delayed filing of the appeal(s). No order as to costs.

Result of the case: Appeals disposed of.

**Headnotes prepared by: Mukund P Unny, Hony. Associate Editor
(Verified by: Shibani Ghosh, Adv.)*

4 1. C.A. @ SLP(C) Nos. 5544-5545/2023 (2 Matters)
2. C.A. @ SLP(C) No. 4044/2023
3. C.A. @ SLP(C) Nos. 4051/2023
4. C.A. @ SLP(C) Nos. 4045/2023
5. C.A. @ SLP(C) Nos. 4058/2023
6. C.A. @ SLP(C) Nos. 4052-4056/2023 (5 Matters)
7. C.A. @ SLP(C) Nos. 4048/2023
8. C.A. @ SLP(C) Nos. 4298/2023
9. C.A. @ SLP(C) Nos. 9166/2023
10. C.A. @ SLP(C) Nos. 15189/2023
11. C.A. @ SLP(C) Nos. 15188/2023

5 1. C.A. @ SLP (C) Diary No. 53634/2023 (Total-6 Matters)
2. C.A. @ SLP (C) No. 14904/2024
3. C.A. @ SLP (C) No. 14905/2024
4. C.A. @ SLP (C) No. 14903/2024
5. C.A. @ SLP (C) No. 15529/2024
6. C.A. @ SLP (C) No. 14906/2024